

## SECTION 5: CHILDREN

**Question 28: Given BCAP's policy consideration, do you agree that rule 5.7 (exploitation of trust) should be included in the Code? If your answer is no, please explain why.**

**Note that this question refers to rule 4.3 of the new published Code: rules numbers have changed due to a decision to move two of the rules in the Children section into the Harm and Offence section. Also note that new rule 4.3 will afford protection to persons under the age of 18, not just to children.**

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Association for Interactive Media and Entertainment; Charity Law Association; Christian Concern for Our Nation and Christian Legal Centre; Family and Parenting Institute; Mobile Entertainment</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Charity Law Association said:</i> We agree with rule 5.7 but would propose adding the words:</p> <p style="padding-left: 40px;"><i>"Advertisements must not exploit or seek to exploit, either directly or indirectly, the special trust ..."</i></p> <p>It is arguable whether some definition of "special trust" might be required. If so, we would suggest that "special trust" is that trust which is ordinarily understood by right-thinking people.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP proposed to introduced rule 5.7 (which is rule 4.3 in the published new Code) to reflect a requirement of the Audiovisual Media Services Directive. It proposed – both for the sake of conciseness and for the sake of consistency with the Directive – to reproduce, as closely as practicable, the wording of the Directive in the rule.</p> <p>BCAP considers that the suggested addition of "either directly or indirectly" would not make the rule any clearer or warrant a deviation from its policy to replicate the Directive's wording. Similarly, BCAP considers it unsuitable to define "special trust" because of the danger of coming into conflict with, or affording less protection than, a minimum-harmonisation Directive.</p>
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<p>Forum; Square1 Communications Ltd;</p> <p>4 organisations requesting confidentiality;</p> <p>3 individuals</p>	<p>2. <i>CCON and CLC said:</i> Yes but with additions to it.</p> <p>Proposed Rule 5.7.states that Advertisements must not exploit the special trust placed in parents, guardians, teachers or other parents.</p> <p>In order to comply with the AVWS Directive this should also say that “TV advertisements must not cause physical or moral detriment to minors.”</p> <p>It is important that the moral protection of children is included.</p> <p>3. <i>AIME and Square1 said:</i> While we agree totally with the sentiment of the proposed rule the wording is unnecessarily prescriptive regarding parents etc. when it closes with “other persons”. It might be more realistic to adopt a more generic approach e.g. “Advertisements must not exploit the special relationships that children enjoy with adults and from whom they would expect the protection of care and trust.”</p>	<p>2. Rule 4.1 (in the Harm and Offence section of the new published Code) prevents advertisements causing physical or moral harm to those under 18.</p> <p>3. As stated in point 1, above, BCAP decided to reflect as closely as possible the wording of the Directive. If it adopted the suggested wording, BCAP would not afford the same level of protection as the Directive requires.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>None</p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

**Question 29:**

- i) Given BCAP's policy consideration, do you agree rule 5.14 (expensive products of interest to children) should be applied to advertisements broadcast on all Ofcom-licensed television channels and not only those broadcast to a UK audience? If your answer is no, please explain why.
- ii) Given BCAP's policy consideration, do you agree rule 5.14 should define an 'expensive' product of interest to children to be £30 or more? If your answer is no, please explain why.
- iii) Given BCAP's policy consideration, do you agree rule 5.14 should be included in the Code? If your answer is no, please explain why.

**Note that this question refers to rule 5.12 of the new published Code: rules numbers have changed due to a decision to move two of the rules in the Children section into the Harm and Offence section.**

<i>Responses received in favour of BCAP's proposal from:</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
Advertising Association; Archbishops' Council, Church of England; Charity Law Association; Christian Concern for Our Nation and Christian Legal Centre; Family and Parenting	1. <i>Charity Law Association said:</i> Given the cost of current toys, £30 is a reasonable cut off point.	1. No comments

<p>Institute; STV;</p> <p>3 organisations requesting confidentiality;</p> <p>3 individuals</p>		
<p><i>Responses received against BCAP's proposal:</i></p> <p>Department for Children, Schools and Families; Entertainment and Leisure Software Publishers Association; Family and Parenting Institute; Mobile Broadband Group; Mobile Entertainment Forum; STV;</p> <p>2 individuals</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>STV said:</i> STV agrees with these new rules and the need to establish what an 'expensive toy' is. However, with regard to Question 29(ii) STV is of the view that the value of an expensive toy should take additional factors into consideration over and above inflation, such as social trends and the technological advances within multi-media environments. Whilst the value may come out the same, it would be in order to conduct the review with the additional factors incorporated. For example, children today have mobile phones, MP3 players, laptops, videos etc which are all over £30.00 and consol 'games' for children market around £39.99.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP proposed to increase the figure from £25 to £30 in line with inflation. It considered that the previous figure was proportionate and had stood the test of time; it considered increasing the figure by inflation was a reasonable way to update the rule.</p> <p>BCAP recognises that many children's products retail at prices higher than £30; it does not agree, however, that that should mean "expensive products" should be differently defined.</p> <p>In the absence of a clear reason for objecting to its proposal – and in the absence of a suggested evidence-based alternative – BCAP maintains that increasing the figure to £30 is appropriate for the policy reasons set out here and in the consultation document.</p>

	<p><i>2. An individual said:</i> No I think an expensive item should be £1 or more.</p> <p><i>3. MEF said:</i> The rule (5.14) appears to apply to ‘services’ that are ‘of interest’ to children. This is much wider drafting than the equivalent provision that appears in the CAP Code consultation.</p> <p>It seems that a distinction is now being made between products or services which may be of interest to children compared with services targeted at children. There is a real need for very clear guidance as to how such advertisements will be judged in practice. It is not clear from the proposed wording in the BCAP Code.</p> <p><i>4. ELSPA said:</i> This is wider than the existing rule which was limited to toys and games and could now extend to consoles and online services. Sony Computer Entertainment Europe would not necessarily put prices in all advertisements for products or services which may be of “interest to children”.</p> <p><i>5. DCSF said:</i></p>	<p>2. See point 1, above.</p> <p>3. The existing TV rule refers to “expensive toys, games and comparable children’s products”; BCAP had proposed in the consultation to replace that with “products and services of interest to children”. BCAP recognises that that would have considerably widened the scope of the rule and has decided to revert to:</p> <p style="padding-left: 40px;">Advertisements for a toy, game or comparable children’s product must include a statement of its price or, if it is not possible to include a precise price, an approximate price, if that product costs £30 or more.</p> <p>4. See point 3, above.</p> <p>5. See point 1, above. During the course of the</p>
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	<p>In terms of expensive products of interest to children, family income is varied and wide ranging. DCSF's work with parents would indicate that £20 or more is expensive, not the £30 specified in the consultation. This is a specific area on which BCAP may want to consult families.</p> <p><i>6. Family and Parenting Institute said:</i> FPI agrees that rule 5.14 should define the price that an 'expensive' product of interest to children should be. However, given the current economic climate, FPI believes that the rule should remain unchanged at £25. This is already a substantial amount of money and for families on benefits or low income would be a considerable outlay.</p> <p><i>7. An individual said:</i> No - Defining "expensive" as above a certain cash value will likely become out of date. If "expensive" is to be defined then it should take the form of a proportion of average weekly income (or something similar).</p> <p><i>8. Mobile Broadband Group said:</i> The category of products and services that might be deemed 'of interest to children' potentially widens the scope of the previous rule which limited</p>	<p>Code Review consultation, BCAP has not been made aware of any evidence that would suggest the £30 figure is disproportionate.</p> <p>6. See point 1, above.</p> <p>7. When it revised the rule, BCAP considered other ways of defining "expensive". It considered that the most practical way of doing that was to quote a specific amount. A proportion of weekly income would be a difficult measure to apply, given the variation of different families' income against an ad that could state only one price.</p> <p>8. See point 3, above.</p>
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	<p>such products to “expensive toys, games and comparable children’s products”. By removing clear definitions of specific products which may be considered of interest to children leaves a fairly extensive array of products and services where the child either might have goods themselves or play a part in family decision making. It could include trainers, sports equipment, and even cars. However, this new rule seems to apply for all advertising not just advertising that is scheduled around children’s programmes</p> <p>It seems to the MBG that such provisions could involve unwarranted restrictions on the editorial content of advertisements. The MBG favours retention of the existing text (i.e. not using the phrase ‘of interest to children’) or at least making it clear that the ‘expensive product’ rule only relates to adverts scheduled around children’s programming.</p>	
<p><b>Question 30:</b></p> <p><b>i) Given BCAP’s policy consideration, do you agree that rules 5.15 (competitions) adequately replaces rule 11.8, section 2, of the Radio Code? If your answer is no, please explain why.</b></p> <p><b>ii) Given its policy consideration, do you agree with BCAP’s proposal to introduce a rule that prohibits advertisements for a promotion directly targeted at children if they include a direct exhortation to buy a product? If your answer is no, please explain why.</b></p> <p><b>iii) Given BCAP’s policy consideration, do you agree that rule 5.15 should apply to television and radio</b></p>		

advertisements? If your answer is no, please explain why.

- iv) Given BCAP's policy consideration, do you agree that rule 5.15 should be included in the Code? If your answer is no, please explain why.

**Note that this question refers to rule 5.13 of the new published Code: rules numbers have changed due to a decision to move two of the rules in the Children section into the Harm and Offence section.**

<i>Responses received in favour of BCAP's proposal from:</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
Advertising Association; Archbishops' Council, Church of England; Charity Law Association; Department for Children, Schools and Families; Family and Parenting Institute; Office of Fair Trading;  5 organisations requesting confidentiality;	1. <i>Charity Law Association said:</i> Why have the words "or indirect" been omitted? These words should be included ( <i>in answer to Q30i</i> ).	1. BCAP considers it would be unnecessary and overly restrictive to subject promotions that inadvertently appeal to children but are directly targeted at adults to the rule. The rule is intended to provide protection to promotions that are targeted directly at children, and not promotions that may be of passing interest to them.  BCAP has decided to replace rules 5.15 and 5.16, on which it consulted, with:  <b>5.13</b>  Advertisements for promotions targeted directly at children:  <b>5.13.1</b>  must include all significant qualifying conditions



<p>An individual</p>	<p>2. <i>OFT said:</i> Yes, we support the inclusion of rule 5.15, particularly in light of the related provisions contained in the CPRs. However, we would comment that it would be preferable to alter the permissive nature of the wording in the second limb of rule 5.15.3 that states that ‘advertisements</p>	<p><b>5.13.2</b></p> <p>must make clear if adult permission is required for children to enter.</p> <p>Advertisements for competitions targeted directly at children are acceptable only if the skill required is relevant to the age of likely participants and if the values of the prizes and the chances of winning are not exaggerated.</p> <p><b>5.14</b></p> <p>Promotions that require a purchase to participate and include a direct exhortation to make a purchase must not be targeted directly at children.</p> <p>Cross reference: Advertisements for promotions directly targeted at children should comply with Section 28: Competitions.</p> <p>2. BCAP has decided to amend the wording of the rule so that it makes clear ads for competitions targeted at children are permitted <i>only if</i> the skill required is appropriate for the age of the likely participants; BCAP has also included a cross reference to the Competition section:</p>
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	<p>for competitions directly targeted at children are acceptable if.....are not exaggerated’. This form of wording could appear to condone, in some circumstances, what is in fact prohibited under the CPRs as a result of a failure to meet other criteria contained in the CPRs which are not referred to in this rule. A better form of wording might, thus, be ‘advertisements for competitions directly targeted at children are not acceptable where any skill required is not at an appropriate level for the age of the likely participants’. We would suggest that the cross-reference at the foot of rule 5.15 should state that advertisements for promotions directly targeted at children should comply with all other sections of the Code, in particular the sections on misleading, and on competitions. If this suggestion is followed then the final wording in rule 5.15 that stipulates that the value of the prizes and the chances of winning should not be exaggerated should, strictly, be unnecessary. However, if it is included in this rule we would suggest – again – that it should not be presented via permissive language but as a statement that advertisements must not exaggerate...etc.</p> <p>3. <i>DCSF said:</i> DCSF is supportive of the introduction of a rule that prohibits advertisements for a promotion directly targeted at children if they include a direct exhortation to buy a product.</p>	<p><b>5.13.2</b></p> <p>...</p> <p>Advertisements for competitions targeted directly at children are acceptable only if the skill required is relevant to the age of likely participants and if the values of the prizes and the chances of winning are not exaggerated.</p> <p>...</p> <p>Cross reference: Advertisements for promotions directly targeted at children should comply with Section 28: Competitions.</p> <p>3. No comments</p>
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	<p><i>4. Family and Parenting Institute said:</i> FPI agrees that rule 5.15 adequately replaces rule 11.8, section 2 of the Radio Code. However, it no longer includes: <i>The published rules must be submitted in advance to the Licensee and the principal conditions of the competition must be included in the advertisement</i> and FPI feels that this should remain.</p>	<p>4. Broadcasters are responsible for ensuring all ads they broadcast comply with the Code. A broadcaster could, as part of its pre-broadcast compliance checks, ask an advertiser for a competition's terms and conditions but BCAP considers that the Code does not need to require that for the broadcaster to be satisfied. BCAP also considers it unsuitable for a Code that applies to broadcasters to include a rule that imposes requirements on advertisers of competitions.</p> <p>Under rule 5.13.1 of the new published Code, all significant qualifying conditions would have to be included in an ad for a children's competition.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Mobile Entertainment Forum</p>	<p><i>Summaries of significant points:</i></p> <p><i>1. MEF said:</i> The inclusion of the new rule is also in direct conflict with the current PpP Code of Practice which states:</p> <p>"7.5.1 Definition of children's services Children's services are services which, either wholly or in part, are aimed at or should have been expected to be particularly</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. Note that, as indicated in point 1, above, BCAP has amended the wording of rules 5.13 – 5.14 in the new published Code.</p> <p>BCAP does not agree with the respondent's interpretation that those rules would conflict with PP+'s rules. The respondent has not explained why it believes there to be a conflict; in the absence of an explanation, and because it</p>

	<p>attractive to children, who are defined for the purposes of this Code as people under 16 years of age.”</p> <p>The PpP Code goes on to state that:</p> <p>“7.5.2 Promotional material for children’s services must clearly state:</p> <ol style="list-style-type: none"> <li>the usual cost of the service,</li> <li>that the service should only be used with the agreement of the person responsible for paying the phone bill.</li> </ol> <p>7.5.3 Children’s services, and any associated promotional material, must not:</p> <ol style="list-style-type: none"> <li>contain anything which is likely to result in harm to children or others or which exploits their credulity, lack of experience or sense of loyalty,</li> <li>include anything which a reasonable parent would not wish their child to hear or learn about in this way,</li> <li>make direct appeals to children to buy or donate, unless the product, service or donation is one which they could reasonably be expected to afford for themselves,</li> <li>encourage children to use other premium rate services or the same service again.</li> </ol>	<p>disagrees with the interpretation, BCAP is content to maintain its original proposal.</p> <p>Finally, Ofcom considers complaints about programme sponsorship credits under the BCAP Code. Therefore, sponsorship credits must, under Ofcom’s Code, comply with the BCAP Code.</p>
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	<p>7.5.4 Children's services must not:</p> <ul style="list-style-type: none"> <li>a. generally cost more than £3, or in the case of subscription services (see paragraph 7.12), more than £3per month,</li> <li>b. involve competitions that offer cash prizes or prizes readily converted to cash."</li> </ul> <p>These paragraphs are seemingly incompatible with the new wording set out in the BCAP Code and create a conflict between rules applicable to the advertising for the services falling under the jurisdiction of the two regulatory bodies.</p> <p>There is a serious need for BCAP to provide clear examples on the practical application of the proposed provisions given the conflict between the BCAP and PpP Codes. This is especially true since the BCAP Code does not cover, for example, programme sponsorship.</p>	
<p><b>Question 31: Given BCAP's policy consideration, do you agree that these present rules (children as presenters in advertisements) should not be included in the Code? If your answer is no, please explain why.</b></p> <ul style="list-style-type: none"> <li>i) TV rule 7.3.4 – please note that should have read 7.3.3</li> <li>ii) Radio rule 11.11 a), section 2</li> <li>iii) Radio rule 11.11 b), section 2</li> </ul>		

**iv) Radio rule 11.12, section 2**

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Charity Law Association;</p> <p>3 organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>An organisation requesting confidentiality said:</i> TV rule 7.3.4 Should this read 7.3.3? Yes if our understanding of the removal is correct ie; the removal of this section infers that the use of children in advertising is less restrictive but still protects child actors or audiences with sections 5.1, 5.9 and 5.10.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP had intended to cite rule 7.3.3, which it proposed for deletion, and not 7.3.4.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Family and Parenting Institute; Which?</p> <p>An organisation requesting confidentiality;</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Which? said:</i> Whilst there may be some truth to the notion that in principle children are protected by other legislation, we are concerned that children are more vulnerable (as are the children listening / watching other children). Children are far more easily influenced and for that reason we are consider that removing these sections from the code is neither justified nor necessary.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP proposed to delete those rules because they go beyond the scope of a Code that is intended to lay down standards for the content of advertisements, not their production. BCAP considered it unnecessary for the Code to impose requirements on broadcasters that extends beyond the regulation of advertising content. In instances of children being harmed or exploited as a result of an ad's production, the law is better</p>

<p>An individual</p>	<p>2. <i>An organisation requesting confidentiality said:</i> No – shouldn't relax rules with children.</p> <p>3. <i>An individual said:</i> No. I can see no reason why a rule which affords children extra protection should not be left in. Additionally this is in the specific Children's Section of the code and so all issues of particular importance to children should be included here.</p> <p>4. <i>Family and Parenting Institute said:</i> Although FPI agrees that the scope of the BCAP Code is intended to lay down standards for the content of advertisements, not their production and that advertisers and broadcasters are bound by legal requirements when featuring child actors in advertisements to ensure that they are not harmed and that their working conditions are adequate, we feel that that these rules should remain.</p> <p>The Code sets out self-regulatory guidance for advertisers and is this instance the focus is on the</p>	<p>placed to ensure justice than the BCAP Code. Also, it is conceivable that the ASA could investigate a complaint about a child actor being harmed or exploited, and then a subsequent legal case could find the other way.</p> <p>2. See 1, above.</p> <p>3. See 1, above.</p> <p>4. See 1, above.</p> <p>The ASA investigates complaints under the rules in the BCAP Code; if it received a complaint about a child actor being exploited in the course of making an ad, the ASA could not reject the complaint on the basis that the rule was there only to provide guidance. Therefore, reproducing in the Code legislative obligations regarding the protection of children could lead to regulatory overlap. BCAP might consider the need for guidance to the Children section in due course,</p>
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	<p>protection of child presenters in advertisements. We can see no harm in reinforcing to advertisers the responsibility that they have towards the protection of minors, notwithstanding that it is a duplication of requirements laid down in the legislature. BCAP states that if an audience is offended because it believes a child has been harmed or exploited as a result of being featured in an advertisement, the ASA may consider if that advertisement had caused serious or widespread offence under the rules in the proposed Harm and Offence section of the Code. FPI believes that it is far better to reiterate this message in the section that is dedicated to guidance on children and lessen the likelihood of a child being harmed, than to react after the fact.</p>	<p>and could, in that guidance, refer to legal responsibilities in regard to child protection.</p>
<p><b>Question 32: Given BCAP's policy consideration, do you agree that rule 11.10 b) of Section 2 of the present Radio Code (children's health and hygiene) should not be included in the proposed Code? If your answer is no, please explain why.</b></p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of</p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>



<p>England; Charity Law Association;</p> <p>4 organisations requesting confidentiality;</p> <p>An individual</p>		
<p><i>Responses received against BCAP's proposal:</i></p> <p>Family and Parenting Institute</p>	<p><i>Summaries of significant points:</i></p> <p><i>1. Family and Parenting Institute said:</i> Again FPI believes that the rule should remain. Rule 11.10 b) is much more explicit in its guidance than the rules in the proposed Food and Soft Drink Product Advertising to Children part of the Food, Dietary Supplements and Associated Health and Nutrition Claims section, including rule 13.2. In addition, FPI believes that there is benefit in reiterating this in the section dedicated to guidance around directing advertisements at children.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. Any ad that suggested confectionary and snack food products may be substituted for balanced meals would fall foul of rules in the Food, Dietary Supplements and Associated Health and Nutrition Claims section, especially rule 13.2. BCAP therefore considered the inclusion of radio rule 11.10b (section 2) in the new BCAP Code would be superfluous. BCAP considers that the present TV rule, which does not include an equivalent of the existing radio rule, is well-understood by advertisers and broadcasters; on that basis, it sees no need to include an extra rule in the Code that would afford no extra protection.</p>
<p><b>Question 33: Given BCAP's policy consideration, do you agree that rule 5.4 (practices detrimental to children's health) should be included in the Code? If your answer is no, please explain why.</b></p>		

**Note that this question refers to rule 5.3 of the new published Code: rules numbers have changed due to a decision to move two of the rules in the Children section into the Harm and Offence section.**

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; Charity Law Association; Family and Parenting Institute;</p> <p>4 organisations requesting confidentiality;</p> <p>3 individuals</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Charity Law Association said:</i> Rule 5.4 creates a problem as it is not clear in every case what may or may not be detrimental to children's health. An example might, for instance, be an advertisement for peanuts which to most children are completely safe, but may cause very serious illness, if not death, in others. Accordingly, consider rephrasing rule 5.4 to read:</p> <p><i>"Advertisements must not condone or encourage practices which are regarded by the substantial body of medical opinion to be detrimental to children's health."</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers that the rule provides the ASA with the scope to consider complaints, on a case-by-case basis, about ads that condone or encourage practices that are detrimental to children's health. The ASA is experienced at making similar subjective judgements under the existing Children rules, for example the rule that states ads must contain nothing that could cause physical, mental, moral or social harm to children.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>None</p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

**Question 34:**

- i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Children section, are necessary and easily understandable? If your answer is no, please explain why.**
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Children rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?**
- iii) Do you have other comments on this section?**

<i>Responses received from:</i>	<i>Summaries of significant points:</i>	<i>BCAP's evaluation of those points and action points:</i>
Advertising Association; Archbishops' Council, Church of England; ASDA; British Naturism; Charity Law Association; Christian Concern for Our Nation and Christian Legal Centre; Department for Children, Schools and Families; Family and Parenting	<p>These organisations, and an individual, agreed the rules in the proposed Children section are necessary and easily understandable. Those respondents did not identify any changes from the present to the proposed rules that would amount to a significant change in advertising policy and practice, apart from those highlighted in the consultation document:</p> <p>Advertising Association; Archbishops' Council, Church of England; ASDA; Charity Law Association; Department for Children, Schools and Families; Family and Parenting Institute; Mobile Broadband Group; An organisation requesting confidentiality</p>	

<p>Institute; Mobile Broadband Group;</p> <p>4 organisations requesting confidentiality;</p> <p>3 individuals</p>	<p><i>1. Archbishops' Council, Church of England said:</i> The 'Good Childhood' report commissioned by The Children's Society (Penguin, 2009), based on more than 2,500 submissions and a range of qualitative interviews with young people, points to the negative effects that media-driven consumerism can have on the overall well-being of children. The report quotes UK studies (Kasser 2002, Nairn and Ormond 2007) to illustrate the pattern explored by Juliet Schor (2004), who concluded that, other things being equal, the more a child is exposed to the media, the more materialistic they become, the worse they relate to their parents, and the worse their mental health. These effects, the Good Childhood report argues, can have a disproportionate effect on children from poorer families.</p> <p>In 2006, the Archbishop of Canterbury, Dr Rowan Williams, spoke of his concern over the growing commercialisation of childhood, in light of the publication of a report by the independent group Compass. The report suggested that while 70 per cent of 3 year olds recognised the McDonalds logo, only half of that number knew their own surname. He said that "if children grow up in an environment where they think it's acceptable to spend, to encourage others to spend, to be irresponsible about what they have, that's not good</p>	<p>1. BCAP welcomes the respondent's support of all its changes to the rules in the Children section.</p> <p>BCAP agrees that children are more vulnerable to potentially harmful or exploitative advertising: it is for that reason, and because it is underpinned by standards objectives in the Communications Act, that children are afforded extra protection over and above the general audience by the proposed BCAP Code through the Children section.</p> <p>BCAP is pleased that the respondent welcomes its proposals in the context of the reports cited: BCAP is therefore content the proposed rules in the Children section are robust.</p>
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	<p>news. And it also cripples their own childhood, it limits their own possibilities as children, it fences them in.”</p> <p>We agree with each of the recommendations made in questions 28-34, which represent a welcome tightening of the rules relating to advertising targeted at young people.</p> <p><i>2. CCfON and CLC said:</i> No the rules will lower standards. The current principle correctly states that a need exists for special concern for the protection of children. The proposed principle compromises the paramount need to protect children from advertisements that cause physical, mental or moral harm.</p> <p>The current rules and notes should be retained, particularly all of the current rules 7.4,7.4.5 and 7.4.7 and explanatory notes Not portraying children in a “sexually provocative manner” in the current rule is much more descriptive and specific than in the proposed rule using the term “sexual way”. The scheduling descriptions should be maintained and there appears to be a lowering of standards in relation to age specific timings.</p> <p>We are concerned that the proposed rules in this section will lower standards and children must be properly protected.</p>	<p>2. The Principles in the BCAP Code provide a context by which the rules should be read: unlike the rules, they could not be used by the ASA to uphold complaints about ads. The first rule in the Children section of the proposed BCAP Code, which BCAP has broadened in scope and decided to move to the Harm and Offence section (see rule 4.1 of the new published Code), ensures those under the age of 18 are protected from ads that could cause physical, mental, moral or social harm; the Children’s section Principle has neither relaxed nor compromised the rule that protects under 18s from harm.</p> <p>BCAP intends there to have been no change in advertising policy and practice in its revision of existing TV rules 7.4.5 and 7.4.7. BCAP decided to exclude the existing notes of guidance from the Code for conciseness, but will consider supplementing the Children section with separate guidance in due course.</p>
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	<p><i>4. An individual said:</i> Overall, the Code for broadcast advertising to children appear to be pretty robust.</p> <p><i>5. DCSF said:</i> There needs to be some clarity over whether the notes that support the rules will still apply following the proposed revisions.</p> <p><i>6. Family and Parenting Institute said:</i> FPI agrees that CAP's rules are necessary and easily understandable. However, FPI would like to see these rules given a greater prominence. They should be made more easily available to parents, without the need to wade through, what is essentially, a large and unwieldy document.</p> <p>Parents will only be able to judge whether advertisers are adequately self-regulating by having access to the rules by which advertisers are supposed to monitor their own activity.</p> <p><i>7. British Naturism said:</i> Morals are a very slippery concept. One person's moral imperative is often anathema to somebody else. Supposed morals must not be allowed to</p>	<p>4. No comments.</p> <p>5. See point 3, above. It is likely that BCAP would use the existing notes of guidance as a foundation for future separate guidance.</p> <p>6. The BCAP Code is published on the CAP website and is available to view for free by industry practitioners and consumers alike. BCAP considers its rules, including the Children rules, are given adequate prominence, both for marketers and for consumers.</p> <p>7. BCAP considers its rules provide the ASA with the scope to consider complaints, on a case-by-case basis, about ads that could cause harm to children or cause serious or widespread offence.</p>
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	<p>override considerations of harm.</p> <p>The terms 'unsuitable' and 'inappropriate' need to be defined. There are numerous misconceptions about how children react to material so policy and decisions must be based on evidence and not supposition. For example there is not a shred of evidence to support the notion that nudity causes harm to children but we frequently hear people asserting that it does. They are overlaying children with their own prejudices and the evidence is very clear that it results in substantial harm.</p> <p><i>Rule 5.1 Advertisements must contain nothing that could cause physical, mental, moral or social harm to children.</i></p> <p>Interpretation of this rule must be based on evidence of what is harmful. Some supposedly generally accepted ideas about harm are very simplistic, counter productive and in some cases cause serious and widespread harm.</p> <p><i>Rule 5.6 Advertisements must not portray or represent children in a sexual way.</i></p> <p>Some of the present rules and their interpretation can only be justified by assuming that children are inherently sexual. This reinforces dangerous and harmful fallacies and causes widespread and in some cases very serious harm. If children are</p>	<p>The ASA is experienced at making subjective judgements; BCAP has deliberately not defined subjective terms such as “unsuitable” and “inappropriate” because it is for the ASA to decide which advertising material is suitable and appropriate and which is not. The rules are deliberately principles-based. That approach provides the ASA the scope to consider complaints about ads by taking into account the context, medium and age of audience. If BCAP tried to define what is and what is not acceptable for children in different circumstances, it would risk making the Code more prescriptive and could introduce loopholes in an area where audience protection is extremely important.</p> <p>Rule 5.5 of the new published Code does not insist that children should be hidden, pixelated or censored; it also does not refer to nudity. The rule does not say that nudity is linked to sexuality and does not prohibit nudity. It is likely, for example, that the ASA would not uphold complaints about an ad for nappies that featured a naked baby, because that portrayal would not be sexual; such nudity would be in the context of a promotion of a relevant product and, as such, not fall foul of the Code.</p>
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	<p>hidden, pixelated or otherwise censored purely because some disturbed individuals may consider them sexual then that in itself promotes the idea that children are sexual.</p> <p>Treating nudity as if it is inherently sexual causes immense harm.</p> <p><i>8. An individual said:</i> Please let us keep our children as children and not have them grow up too quickly with all this adult sex, violence and worse being purported to be educational.</p> <p><i>9. An individual said:</i> A few months ago there was an advert featured several times on TV before the 9pm watershed. (Unfortunately, I can't remember the company featured). It featured, in a nonchalant, offhand, and supposedly joking way, an adulterous relationship (where the lover hid on the wardrobe when the husband and came home, and popped out in surprise at a remarkable "deal"). I tried, unsuccessfully, to state the case to the ASA, that it was socially irresponsible to air this before 9pm. The answer from ASA was that it was OK to reflect</p>	<p>8. Rule 4.1 in the Harm and Offence section of the new published Code would allow ads only if they contain nothing that could cause physical, mental, moral or social harm to under 18s. BCAP considers that rule provides the necessary protection to children from harmful advertising material and that the rules in the Harm and Offence and Children sections are proportionate.</p> <p>9. BCAP considers that the rules in the Harm and Offence and Children sections of the new published Code provide the ASA with the scope to consider complaints, on a case-by-case basis, about ads that could cause harm to under 18s or cause serious or widespread offence. The ASA is experienced at making subjective judgements under the existing Children and Harm and Offence rules. BCAP does not comment on particular complaints considered by the ASA; it is nonetheless content that its rules are adequate to afford the necessary protection to children.</p>
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	<p>societal norms. I disagreed, on the grounds that many people in society would find this unacceptable, and that by allowing such adverts appeared to condone extra marital affairs, not regarding the issue as serious, with the subsequent effect on children - in many cases. I would urge you to consider this in reference to your section on social responsibility and children in the Review underway.</p> <p><i>10. Consumer Focus said:</i> Consumer Focus wants to see greater consistency in the protection of children aged up to 16 years old with regard to the restrictions for advertising to children in both CAP and BCAP Codes.</p> <p>We would want to see a tightening up of the proposed principle that the way in which children perceive and react to marketing communications is influenced by their age, experience and the context in which the message is delivered.</p> <p>We are concerned about arbitrary distinctions being made. Recent neuroscience research conducted both in the EU and the US (Cornelia Pechmann, Linda Levine, Sandra Loughlin and Francis Leslie. <i>Impulsive and Self-conscious: Adolescents' vulnerability to advertising and promotion</i>. Journal of Public Policy marketing. Vol 24) suggests that, contrary to previous beliefs, children over 12 do not have</p>	<p>10. BCAP is unaware of any inconsistency between the CAP and BCAP Codes that would amount to a more permissive approach, in either broadcast or non-broadcast advertising, regarding the protection of children. None has been identified by respondents to either consultation.</p> <p>It is unclear how Consumer Focus wants the Principle to be tighter: the Principle states "The context in which an advertisement is likely to be broadcast and the likely age of the audience must be taken into account to avoid unsuitable scheduling". The ASA assesses complaints against the rules in the Children section, bearing that Principle in mind as it does so.</p> <p>BCAP agrees that children require extra protection from harmful, misleading and offensive advertising above the protection the Code affords to consumers as a whole: the Children section is</p>
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	<p>adult-like understanding and critical judgement of marketing. Compliance is easier if there is a consistent age limit of application and the minimum should be 16, with consideration of 18 being the minimum in relation to areas such as financial services and explicit material.</p>	<p>intended to achieve that aim. BCAP has not been made aware of any evidence or arguments that suggest the Children section is inadequate to meet that aim. Also, the Code includes rules that restrict the advertising of some products (for example, alcohol, gambling products and weight control products) to under 18s.</p> <p>BCAP has considered the study cited by Consumer Focus (Pechmann et al), which reviewed earlier research findings about adolescent development in neuroscience, psychology and marketing, particularly marketing of addictive products such as tobacco and alcohol. Pechmann et al's literature review highlights three adolescent vulnerabilities:</p> <ul style="list-style-type: none"> <li>i. Impulsivity;</li> <li>ii. self-consciousness and self-doubt; and</li> <li>iii. an elevated risk from product use for both alcohol and tobacco.</li> </ul> <p>BCAP considers the latter not relevant to the Children section; BCAP considers other Code sections (Alcohol and Prohibited Categories) provide adequate protection to children from advertising of those products.</p> <p>BCAP agrees that children are more vulnerable to potentially harmful or exploitative advertising: it is</p>
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